

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|--------------------------|---|-------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | Criminal No. 04-17 Erie |
| |) | |
| DARRELL W. SIVIK |) | |

MOTION TO DESTROY FIREARMS AND AMMUNITION

AND NOW comes the United States of America, by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Marshall J. Piccinini, Assistant United States Attorney for said district, and respectfully moves this Court, pursuant to the All Writs Act, Title 28, United States Code, Section 1651(a) to enter an order authorizing Special Agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, to destroy certain firearms and ammunition seized from the defendant during the investigation of this case. In support thereof, the government alleges as follows:

1. That on or about May 11, 2004, defendant was indicted for violations of Title 18, United States Code, Section 2, and Title 26, United States Code, Sections 5861(d) and (e).

2. That on or about January 31, 2005, defendant Darrell Sivik entered a plea of guilty to two counts of possession of unregistered firearms, violations of Title 26, United States Code, Section 5861(d).

3. That on or about October 4, 2005, defendant was sentenced to 35 months of incarceration.

4. That during the course of the investigation, the following firearms and ammunition were seized from the defendant:

(a) Sten Mark III 9mm submachine gun with three 30-round magazines;

(b) Chinese SKS assault rifle, Model #11-1528863; Serial #28863

(c) .30 caliber machine gun and packaging material, gun parts displaying the following markings: D-35392-1; B-147299-BA; D-9259-13-B1; 447727

(d) Norinco 9mm semi-automatic pistol, Model 213, Serial #302105

(e) single stack 4" gun magazine, serial #7433;

(f) single stack 4" gun magazine, serial #2105;

(g) single stack 4" gun magazine, serial #3877;

(h) box of Wolf 9mm Luger ammunition (50 rounds);

(i) box of American Eagle 9mm ammunition (approx 50 rounds);

(j) belt of .30 caliber ammunition, approx. 600 rounds;

(k) Sten Mark III submachine Gun, Serial #R41434;

(l) Sten Mark III submachine Gun Serial #294677;

(m) 17 magazines, approximately 30-round capacity, each containing approximately 20 rounds of 9mm ammunition;

(n) 1 Sten Mark III submachine gun, serial #3336;

(o) Sten Mark III submachine gun, serial #G13467;
(p) Sten Mark III submachine gun, serial #G65770;
(q) Sten Mark III submachine gun, serial #C190-1; and
(r) 13 gun magazines, approximately 10" in length, each containing approximately 20 rounds of 9mm ammunition.

5. That, as a result of defendant's felony conviction in the United States District Court for the Western District of Pennsylvania, it is unlawful for the defendant to possess any firearm¹ or ammunition² or to receive any firearm or ammunition, Title 18, United States Code, Section 922(g)(1).

¹ The term "firearm" means "(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearms muffler or firearm silencer; or (D) any destructive device." 18 U.S.C. §921(a)(3).

² The term "ammunition" means "ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm." 18 U.S.C. §921(a)(17)(A).

WHEREFORE, as a result of defendant's felony conviction, it is respectfully requested that this Court enter an order authorizing Special Agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives to destroy the above-described firearms and ammunition.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

s/ Marshall J. Piccinini
MARSHALL J. PICCININI
Assistant U.S. Attorney
PA ID No. 56362